

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII
HONOLULU DIVISION

ALPHONSE DIXON, and others)	
similarly situated,)	
)	
Plaintiff,)	
)	Civil No: 1:17-cv-368
v)	
)	
MATSON NAVIGATION COMPANY, INC.,)	
)	
Defendant.)	
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CLASS ACTION COMPLAINT UNDER RULE 9(h)

NOW COMES Plaintiff, on his behalf and other similarly situated persons, complaining against Defendant as follows:

1. Jurisdiction and venue lie in this action, Defendant being subject to service of process within this forum.
2. Subject matter jurisdiction is founded under the general maritime law and the Shipowner's Liability Convention for the unearned wage component of maintenance and cure.
3. At all times material to issues herein, Plaintiff, and other similarly situated persons, suffered illness or injury in the service of Defendant's vessel(s) on high seas voyages wherefore unearned wages were payable and, in breach of its general maritime law obligations, Plaintiffs and others similarly situated were thereafter paid earned wages, sans the overtime, they otherwise would have earned; moreover, as to those with dependents, such as Plaintiff, unearned wages were

not paid until their sickness or incapacity was declared of a permanent character.

4. Plaintiff, and others similarly situated, are entitled to (a) the overtime component of the unearned wages they otherwise would have earned, per the general maritime law, and (b) as to those with dependents, such as Plaintiff, they are entitled to unearned wages until their sickness or incapacity was declared of a permanent character, per the Shipowners' Liability Convention.

CLASS ACTION ALLEGATIONS

5. Plaintiff is entitled to sue as a representative party on behalf of crewmembers who have been paid (a) unearned wages on high seas voyages sans the overtime pay they would have earned, and (b) for those with dependents who were not paid unearned wages until their sickness or incapacity was declared of a permanent character, for the following reasons:

6. Joinder of all class members is not practicable because:

A. The class numbering according to Plaintiff's best present estimate is too numerous and/or disperse geographically.

7. The claim of Plaintiff is typical of the claims of the class.

8. Plaintiff will fairly and adequately protect the interests of the class.

9. The prosecution of separate actions by individual members of the class would create a risk of:

A. Inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct of Defendant; and

B. Adjudications with respect to individual members of the class would, as a practical matter, be dispositive of the interests of adjudication or substantially impair or impede their ability to protect their interest.

10. Questions of fact and law common to the members of the class predominate over any questions affecting only individual members, i.e. (a) whether unearned wages is inclusive of the overtime the crewmember would have earned, and (b) unearned wages are payable until crewmen with dependents reach maximum medical improvement.

11. A class action is superior to other available methods for the fair and efficient adjudication of the controversy because it will:

- A. Avoid a multiplicity of actions;
- B. Permit the litigation of small claims otherwise sufficient to support litigation;
- C. Promote judicial economy.

WHEREFORE Plaintiff and class members pray for Judgment in an amount equal to the amount of unearned overtime wages to which they are entitled to, and for crewmembers with dependents, unearned wages paid until their sickness or incapacity was declared of a permanent character, plus interest, costs, attorney fees and any other relief to which they are lawfully entitled in the premises.

O'BRYAN BAUN KARAMANIAN

/s/Dennis M. O'Bryan

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